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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,293	04/19/2004	Nir Hadar	620/30	9911

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EXAMINER

HUYNH, LOUIS K

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/826,293	<b>Applicant(s)</b> HADAR, NIR	
	<b>Examiner</b> Louis K. Huynh	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-20 and 24-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group II, claims 14 and 15, in the reply filed on 10/09/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 1-13 have been cancelled, claims 16-26 have been added which are directly or indirectly depends on claim 14.
3. Applicant further elected species 1, Figures 1-7, and asserted that claims 14-20 and 24-26 are either generic or readable on the elected species.
4. Claims 21-23 have been withdrawn from further consideration and will be fully examined on the merits when the generic claim 14 is in condition for allowance.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 16, 17, 19, 20, 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16, line 1: "said length" lacks proper antecedent basis. It is also unclear as to what length applicant is referring.

Claim 16, line 2: "said breadth" lacks proper antecedent basis. It is also unclear as to what breadth applicant is referring.

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Claim 17, line 1: "said first pair of side" lacks proper antecedent basis.

Claim 17, lines 1-2: "said second pair of side" lacks proper antecedent basis.

Claim 19, line 2: "said length" lacks proper antecedent basis. It is also unclear as to what length applicant is referring.

Claim 20, line 2: "said elongated channels" lacks proper antecedent basis.

Claim 25, lines 1-2: "said first and second pairs of sides" lacks proper antecedent basis.

Claim 26, lines 1-2: "said first and second pairs of sides" lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 14-20 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Overholt et al. (US 6,398,054).

With respect to claim 14, Overholt discloses a method for using a crate including the steps of: providing a crate (10) having a base (12) with an upper surface including a recess formed between two flanges (24 & 26); four sides (28, 30, 32, 34) deployable in a crate configuration (Fig. 1), wherein the sides and the base are engaged to form a four-sided crate, and in a knockdown configuration (Fig. 11), wherein in the sides (28, 30, 32, 34) are substantially received within the recess of the base (12) in the knockdown configuration; deploying the crate in the crate configuration for receiving produce; loading produce into the crate (inherent) at a loading station such as a farm; transporting the produce in the crate (inherent) to an unloading

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station such as a market; unloading the produce from the crate (inherent) in order to display the produce on to shelves at the market; and deploying the crate in the knockdown configuration to save space during storage and/or transport the crate to the previous loading station for the same type of produce or another station for a different type of produce.

With respect to claim 15, the crate of Overholt includes complementary alignment projection and recesses on the base and sides that enable stacking of a plurality of the crates, and the method of Overholt further includes stacking the crate when the crate is in the crate configuration as shown in Fig. 13; and stacking the crate when the crate is in the knockdown configuration as shown in Fig. 14.

With respect to claim 16, as best understood, a length of each side is substantially equal to its respective breadths of the base.

With respect to claim 17, as best understood, opposite pairs of sides are interchangeable.

With respect to claim 18, the base and sides of the crate (10) in the method of Overholt are formed from molded plastic material (col. 6, lines 14-19).

With respect to claim 19, the base (12) of the crate (10) includes a plurality of elongated channels formed in bottom surface of the base and extending parallel to the elongated recess; see Fig. 7.

With respect to claim 20, a major part of the elongated recess of the base (12) lies between two outer most channels formed in the bottom of the base (12); see Fig. 7.

With respect to claim 24, the base (12) includes two raised walls (69 & 70) that form closed ends of the elongated recess of the base.

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With respect to claim 25, each of the sides of the crate in the method of Overholt has a height the is less than a width at the closed end of the elongate recess.

With respect to claim 26, Figs. 18 and 19 show attachment features for attachment of two sides such that each side is doubly interlocked with two adjacent sides.

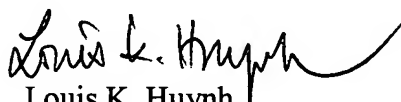
***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied references.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Louis K. Huynh  
Primary Examiner  
Art Unit 3721

February 14, 2006